

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
IN RE TREMONT SECURITIES LAW,  
STATE LAW AND INSURANCE : Master File No. 08 Civ. 11117(TPG)  
LITIGATION :  
\_\_\_\_\_  
This Document Relates to: :  
:  
F. DANIEL PRICKETT : No. 09 Civ. 03137 (TPG)  
:  
Plaintiff, : **Electronically Filed**  
:  
- against - :  
:  
NEW YORK LIFE INSURANCE COMPANY, :  
et al. :  
:  
Defendants. :  
----- X

**NOTICE OF MOTION BY THE MASSMUTUAL DEFENDANTS  
TO DISMISS THE COMPLAINT**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, upon the Memorandum of Law submitted herewith, defendants Massachusetts Mutual Life Insurance Company and MassMutual Holding LLC (“MassMutual”), by their counsel, Bingham McCutchen LLP, will move this Court before the Honorable Thomas P. Griesa, at the Daniel Patrick Moynihan United States Courthouse at 500 Pearl Street, New York, New York, on a date and at a time to be designated by the Court, for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing with prejudice plaintiffs’ claims against MassMutual for fraud (Count I), negligent misrepresentation (Count II), unjust enrichment (Count III), and aiding and abetting fraud and breach of fiduciary duty (Count V).

PLEASE TAKE FURTHER NOTICE that the last day to serve any opposition papers to this motion is March 30, 2012 pursuant to the Court's January 25, 2012 Order (Dkt. No. 18).

DATED: February 29, 2012

**BINGHAM McCUTCHEN LLP**

/s/ Carol E. Head

Kenneth I. Schacter  
399 Park Avenue  
New York, NY 10022-4689  
Tel.: 212.705.7000  
Fax: 212.752.5378  
kenneth.schacter@bingham.com

Joseph L. Kociubes\*  
joe.kociubes@bingham.com  
Carol E. Head\*  
carol.head@bingham.com  
One Federal Street  
Boston, MA 02110  
Tel.: 617.951.8000  
Fax: 617.951.8736  
\*admitted pro hac vice

*Attorneys for Defendant  
Massachusetts Mutual Life Insurance  
Company and MassMutual Holding LLC*